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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

909 WRIT PETITION NO.6069 OF 2023

**VASANT DALU DHANDE
VERSUS
THE STATE OF MAHARASHTRA THROUGH SECRETARY
AND OTHERS**

....

Mr S. H. Tripathi, Advocate for Petitioner;
Mr S. G. Karlekar, A.G.P. for Respondent Nos.1 to 3

**CORAM : RAVINDRA V. GHUGE
AND
Y. G. KHOBRAGADE, JJ.**

DATE : 15th June, 2023

PER COURT:

1. On 08/06/2023, We had passed the following order :-

“1. Not a single document placed on record would indicate that the petitioner's land Survey No.320/2/1 admeasuring 1 Hectare 19 Are situated at Jalgaon is covered by the Development Plan for the Waghur Canal. Whichever documents the petitioner has placed before us, which carry specific survey nos., do not mention Survey No. of the petitioner's land. He intends to draw an inference on the basis of a map that his land Survey No. 320/2/1 is included in the development plan.

2. Since various resolutions of the Municipal Corporation including communication by the Commissioner to the authorities of the Urban Development

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Department, do not include the Survey no. of the petitioner, we have no reason to entertain this petition. However, the learned Advocate for the petitioner submits that he will place on record the document which would indicate that his Survey No. 320/2/1 is a part of the development plan.

3. In view of the above, we are adjourning the matter to 15.06.2023 to enable the petitioner, as an opportunity, to place documents before us.

4. We make it clear that if the statutory documents pertaining to the development plan as regards Waghur Canal and 18 meter service road besides the canal does not include Survey No.320/2/1, we would impose exemplary cost on the petitioner for wastage of time of the Court.

5. Stand over to 15.06.2023 for passing orders.”

2. Today, the Petitioner places before us a copy of the certificate issued by the In-charge Assistant Director, Town Planning, Jalgaon City Municipal Corporation, dated 09/06/2023, addressed to the Petitioner, informing him that his land Survey No.320/2/1 is affected by the project pertaining to the Waghur Canal and the 18 meters width road adjacent thereto. Same is marked as 'X' for identification.

3. Having perused the Resolution No.171 with regard to Subject No.02, dated 03/08/2019, placed on record at Page No.19, the Petitioner frankly admits that his Gut Number is not

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mentioned. He agrees that this Resolution needs to be corrected, since, according to him, the documents annexed to this Resolution, which have been transmitted to the Government, contain the details of the Petitioner's Survey Number.

4. The learned A.G.P. relies upon a document dated 16/12/2021 bearing Outward No.1365/2021 at Page No.25 and the accompanying documents at Page No.26, wherein the land of the Petitioner is indicated to be partly affected.

5. In view of the above, we cannot deal with the disputed issues, and more particularly of the above nature. The Petitioner will have to move the concerned authority of the Municipal Corporation to point out, whether his Survey Number is covered by the Resolution No.171. If his land falls in the green zone, the same cannot be a part of the development plan, which according to the Petitioner, is no longer to be proceeded with and is sought to be deleted from reservation of the Waghur Canal and the 18 meters service road for the said Canal.

6. This **petition is, therefore, disposed off** with the following observations :-

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(a) The Petitioner is at liberty to move a specific application to the Mayor of the Jalgaon City Municipal Corporation in the light of the Resolution No.171.

(b) The Corporation is at liberty to consider the claim of the Petitioner in the light of it's record.

(c) If the Petitioner's land falls in the green zone, then there is no question of deleting his Survey Number from the reservation.

(d) Let the concerned authorities decide the representation of the Petitioner, strictly in accordance with it's record and we make it clear that, we have not expressed any opinion on the pleadings and the prayers put forth by the Petitioner in this petition. In short, it is the Corporation, which is at liberty to consider the representation and pass an appropriate order.

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)

sjk